

REMARKS

Status of the Claims

In accordance with the foregoing, claims 1, 4 and 5 have been amended. Claims 1 and 4-8 are pending and under consideration. No new matter has been added.

Rejection under 35 U.S.C. § 112

On page 2, item 3, the Office Action rejected claims 1 and 4-8 under the first paragraph of 35 U.S.C. § 112 for failing to comply with the enablement requirement. This rejection is respectfully traversed.

Claim 1, for example, recites “calculating the hair length of the expected next date of visit based on... the hair growth rate” (lines 10-13). Because the expected next date of visit is in the future, the calculated hair length is necessarily an approximation. Therefore, regardless of whether the hair growth rate is variable as alleged by the Examiner, a person of ordinary skill in the art would be able to determine a value for the “hair growth rate” such that an approximate hair length at the expected next date of visit can be calculated. Moreover, claim 1 as amended recites that the calculated hair length is “based on... the hair growth rate,” and thus, does not preclude a person of ordinary skill in the art from determining the hair length based on a formula to account for a variable hair growth rate. Independent claims 4 and 5 recite similar features, and therefore, Applicants request the rejection be withdrawn for claims 1 and 4-8.

Rejection under 35 U.S.C. § 103(a)

On page 3, item 5, the Office Action rejected claims 1, 4-8 under the first paragraph of 35 U.S.C. § 103(a) as being unpatentable over Geerlings (U.S. Patent 6,073,112) in view of Blancato (U.S. Patent 4,823,285). This rejection is respectfully traversed.

In a non-limiting example, claim 1 recites “calculating the hair length of the expected next date of visit based on the hair length for the previous date of the hair cut, the number of days between the previous date of the haircut and the expected next date of visit, and the hair growth rate” (lines 10-13). Applicants submit that Geerlings and Blancato, individually and combined, fail to describe the above mentioned features of claim 1.

Geerlings describes a merchant to customer communication system which accounts for customer shopping behavior and tailors communications to the customer with respect to content and timing (see col. 1, lines 50-56). In the last paragraph of page 4, the Office Action conceded that Geerlings fails to explicitly disclose the system being used in a hair salon. The Office

Action, however, asserted that it would have been obvious to apply the teachings of Geerlings as an effective means of communicating information to customers to visit a hair salon based on the customer's prior behaviors. Even assuming *arguendo* that it would be obvious to apply the teachings of Geerlings to a hair salon, Geerlings merely describes a way of improving communication based on past *behavior* (e.g. sending marketing materials related to a customer's previously purchased hair products). Geerlings, however, fails to describe "calculating the hair length of the expected next visit" as described in claim 1.

In the second paragraph of page 5, the Office Action asserted that it would be obvious to calculate hair length by extrapolation if the number days between hair cuts and the hair growth rate are known, based on collected data concerning the customer. The Office Action appears to rely on Blancato as teaching storing information regarding a customer. Assuming *arguendo*, that Blancato describes storing information regarding various hairstyles, the Office Action provides no support for the conclusion that the information stored would include the number of days between hair cuts or the hair growth rate. Blancato merely describes a method for capturing an image of an individual and digitally modifying the individual's hairstyle without regard to how long it might take to grow hair to accomplish the hair style (see Figs. 4 and 5). Accordingly, because Blancato merely modifies a person's hairstyle digitally, it is not concerned with, nor does it describe, storing when a customer last received a haircut or the person's hair growth rate. Moreover, nothing in Blancato describes "calculating the hair length of the expected next visit" as recited by claim 1.

Thus, the Office Action seems to rely on impermissible hindsight in stating that it would be obvious to calculate hair length if the number of days between haircuts and the hair growth rate are known because the Office Action provides no support that cited art even contemplates storing or accounting for the number of days between hair cuts or a hair growth rate, let alone calculating a hair length. Accordingly, Applicants submit that that Geerlings and Blancato, individually and combined, fail to describe "calculating the hair length of the expected next date of visit based on the hair length for the previous date of the hair cut, the number of days between the previous date of the haircut and the expected next date of visit, and the hair growth rate" as recited by claim 1. Therefore, claim 1 patentably distinguishes over the cited art.

Independent claims 4 and 5 recite "calculating the hair length of the expected next date of visit based on the hair length for the previous date of the hair cut, the number of days between the previous date of the haircut and the expected next date of visit, and the hair growth rate," and therefore, patentably distinguish over the cited art.

Dependent claims 6-8 inherit the patentable distinctions of their respective base claims, and therefore, patentably distinguish over the cited art.

In view of the above, Applicants respectfully request the rejection be withdrawn.

Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

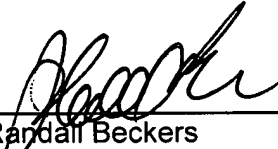
Respectfully submitted,

STAAS & HALSEY LLP

Date: _____

4/10/8

By: _____


J. Randall Beckers
Registration No. 30,358

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501